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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)
)
Implementation of the Non-Accounting) CC Docket No. 96-149
Safeguards of Sections 271 and 272 of the)
Communications Act of 1934, as amended;)

**REPLY COMMENTS OF SBC COMMUNICATIONS INC.
IN RESPONSE TO COMMENTS CONCERNING
FURTHER NOTICE OF PROPOSED RULEMAKING**

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March 21, 1997

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SBC Communications Inc. ("SBC"), through its attorneys and on behalf of its subsidiary Southwestern Bell Telephone Company ("SWBT"), submits these Reply Comments in response to Comments filed relating to the Further Notice of Proposed Rulemaking in this docket.

I. INTRODUCTION

On December 24, 1996, the Commission released its *First Report and Order and Further Notice of Proposed Rulemaking* herein. In the *First Report and Order* ("Order"), the Commission adopted non-accounting safeguards pursuant to Section 272 of the Communications Act to govern the entry by Bell operating companies ("BOCs") into the interLATA telecommunications services, interLATA information services, and manufacturing markets. In the Order, the Commission also concluded that, in order to implement Section 272(e)(1)¹ effectively, the BOCs must be required to

¹Section 272(e)(1) provides that a BOC "shall fulfill any requests from an unaffiliated entity for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or to its affiliates."

make publicly available the intervals within which they provide services to themselves and their affiliates.

In the *Further Notice of Proposed Rulemaking* ("FNPRM"), the Commission sought comment concerning the manner in which BOCs must comply with this information disclosure requirement. Specifically, the Commission sought comment concerning the appropriate method of information disclosure, the service categories and units of measure for the information required to be disclosed, the frequency with which the information must be updated, the length of time that BOCs should be required to retain the information, the appropriate level of aggregation of the information, and the consistency of these requirements with other reporting requirements. SBC, as well as nine other parties, submitted Comments on February 19, 1997, addressing the questions and tentative conclusions that the Commission included in the FNPRM.² SBC responds in these Reply Comments to the Comments filed by other parties herein.

II. SCOPE OF THE INFORMATION DISCLOSURE REQUIREMENT UNDER SECTION 272(e)(1)

In the FNPRM, the Commission proposed to adopt virtually the entire information disclosure proposal that AT&T had submitted in an *ex parte* filing in this docket.³ Although AT&T's requests were included practically verbatim in the Commission's proposed disclosure format, in its

²Before addressing those questions and tentative conclusions, however, SBC reiterated the comments that it had provided to the Commission in an *ex parte* filing (Letter of Todd F. Silbergeld, CC Docket No. 96-149, dated and filed November 6, 1996) in this docket. In that filing, SBC protested the fact that the Commission had proposed to impose a new and superfluous layer of federal reporting requirements. As SBC pointed out, the proposed new reporting requirements were unnecessary and were duplicative of state reporting obligations and service quality standards that have emerged from the interconnection negotiation and arbitration processes. Moreover, additional federal reporting requirements would impose substantial costs upon the BOCs with little or no public interest benefit. SBC thus urged the Commission to reconsider its decision to require that service interval information be compiled and disclosed by the BOCs.

³Letter of Charles E. Griffin, CC Docket No. 96-149, dated and filed October 3, 1996.

Comments herein AT&T boldly proposed to enlarge the information disclosure requirement far beyond the scope of Section 272 of the Communications Act. AT&T urged the Commission to revive and adopt the proposal that Teleport had submitted in an *ex parte* filing, as well as in its Petition for reconsideration of the First Interconnection Order,⁴ and that the Commission tentatively concluded that it should reject in the FNPRM.⁵ The Commission stated that:

Finally, we note that much of Teleport's proposal appears directed toward the implementation of local competition by incumbent LECs, and therefore does not address service intervals provided by the BOCs. Teleport has raised many of these same proposals in its petition for reconsideration of the First Interconnection Order. We tentatively conclude, therefore, that we should limit the scope of the proposals considered in this docket to requirements necessary to implement the service interval requirements of section 272(e)(1).⁶

In addition to the information disclosure format that AT&T had proposed to the Commission in October, 1996, much of which the Commission used in its proposed format, AT&T now submits a new format filed as Exhibit 2 to its Comments. That format would require disclosure of intervals with respect to the provision of resold services and unbundled elements, which, as the Commission pointed out, encroaches on the implementation of local competition by incumbent LECs.

Section 272 of the Communications Act relates to the formation by a BOC, not by other incumbent LECs, of a separate corporate affiliate in order to engage in in-region interLATA telecommunications or information services or manufacturing, after the Commission has given the BOC authority to enter those business pursuant to Section 271 of the Communications Act. Section 272, including Section 272(e)(1), governs how the Section 272 affiliate is to be organized and how

⁴See, Teleport Communications Group, Inc., Petition for Reconsideration of the First Interconnection Order, CC Docket No. 96-98 at 5-6 (Sept. 30, 1996); Letter from J. Manning Lee, Vice President Regulatory Affairs, Teleport Communications Group, Inc., to William F. Caton, Secretary, FCC, Oct. 14, 1996, CC Docket No. 96-98, Attachments 1 and 2.

⁵FNPRM, ¶ 382.

⁶Id. [footnote references omitted]

it is to relate to the BOC. Section 272(e)(1) requires that the Section 272 affiliate, and after sunset of the Section 272 requirements, the BOC itself, be provided exchange and exchange access services in a period that is the same as the period in which competitors of the Section 272 affiliate is provided such services. Section 272(e)(1) is simply one of several nondiscrimination standards included in Section 272. The Commission cannot force onto incumbent LECs an information disclosure requirement relating to intervals for provisioning interconnection via unbundled network elements or wholesale services through the guise of Section 272. As the Commission stated,

Section 272(e)(1) and section 251 [relating to interconnection] do not govern similar activities. Section 251 provides a framework that requires incumbent LECs to provide, inter alia, interconnection, unbundled network elements, and wholesale services to requesting telecommunications carriers. In contrast, section 272(e)(1) requires BOCs to fulfill requests for telephone exchange service and exchange access from unaffiliated entities on a nondiscriminatory basis. . . .⁷

The information disclosure format proposed by the Commission, if the Commission determines that it should mandate such disclosure, is the appropriate format, not the new Exhibit 2 format now proposed by AT&T. The format proposed by the Commission achieves the result intended by Section 272(e)(1): it ensures that the BOC will fulfill any requests for exchange or exchange access services from an unaffiliated entity that is a competitor of the affiliated Section 272 company in a period no longer than the period in which it provides such services to the affiliated Section 272 company.

In its Comments, SBC supported the Commission's tentative conclusion that, in providing rules for compliance with Section 272(e)(1), it should seek to avoid imposing any unnecessary burdens on the BOCs, unaffiliated entities, and the Commission.⁸ SBC thus endorsed the

⁷FNPRM, ¶ 243.

⁸SBC Comments at 3; FNPRM, ¶ 369.

Commission's tentative conclusion that the BOCs need not submit directly to the Commission the data that should be disclosed under Section 272(e)(1) but rather that each BOC should submit to the Commission an annual affidavit, commencing when that BOC receives Section 271 authorization, certifying compliance with Section 272(e)(1). In that affidavit, the Commission tentatively concluded that the BOC should specify the manner in which required information will be disclosed to the public.⁹

Comments supported these tentative conclusions of the Commission;¹⁰ MCI, Telecommunications Resellers Association, and AT&T urged the Commission to require that the BOCs file interval information with the Commission.¹¹ The purpose of making service interval information available to the public is, however, better served by SBC's proposal to make information available on a monthly basis, compiled and organized on a state-by-state basis, on its home page on the Internet, with each report remaining on the Internet for twelve months so that, after the first year, reports for twelve months on a rolling basis would be available to the public.

III. SERVICE CATEGORIES AND UNITS OF MEASURE

In the FNPRM, the Commission sought comment concerning whether its proposed standardized disclosure format, which included seven service categories, would be an appropriate manner to make information available to the public. With general reservations concerning some parenthetical statements in the Service Category columns of the format, SBC generally supported the Commission's proposed format,¹² which actually was virtually identical to the format earlier

⁹Id.

¹⁰U S WEST, p. 3, Bellsouth, p. 2.

¹¹MCI, p. 2; TRA, p. 5; AT&T, p. i.

¹²SBC Comments, pp. 4-7.

proposed by AT&T. SBC's responses to the Comments concerning the seven service categories are as follows:

1. Successful Completion According to Desired Due Date (measured in a percentage)

In its Comments, SBC stated that "[t]his service category is clearly defined and appropriate. SBC can provide this service interval information in the format requested."¹³

SBC agrees with Pacific Telesis Group that most BOCs already provide reports to interexchange carriers ("IXCs") upon their request concerning provisioning performance for access services.¹⁴ The information the BOCs currently provide is the information IXCs have considered important. For example, AT&T has Direct Measures of Quality (DMOQ) guidelines that SBC follows in order to assure AT&T that it is getting high quality service. The faith that AT&T places in the existing DMOQ process is evidenced by its expressed goal to be a world class provider of services to end user customers and by its recognition that achievement of this goal requires a commitment from AT&T's "access providers." Results have been voluntarily measured on this basis solely for IXCs who have requested them.

In addition SBC agrees with BellSouth that no interval measurement should be based on a "requested" or "desired" due date, since these dates are beyond the control of the BOC.¹⁵ SBC submits, in many cases due to negotiations with the IXC, the negotiated due date and desired due date are not distinguishable. Although BOCs have every reason to attempt to meet their customers' desired due dates, any measurement based on these "deadlines" would present the incentive for IXCs

¹³SBC Comments, p. 4.

¹⁴PacTel, p. 3.

¹⁵BellSouth, p. 3.

and others to attempt to skew the BOCs' records by requesting unrealistic or unnecessarily truncated due dates. The Commission should not establish a measurement device that is so susceptible to manipulation by the IXC's. SBC agrees with statements made by several other commenting parties that a more meaningful measure would be BOC success in meeting its promised or committed due date.¹⁶

Furthermore, SBC disagrees with Telecommunications Resellers Associations's ("TRA's") statements that reliance upon "the BOC-promised due date" as opposed to the "customer's requested due date" will allow for further strategic manipulation of data by BOCs. This concern would be mitigated in part by disclosure by BOCs of "the length of the interval promised by the BOCs to their affiliates at the time the order is placed." SBC submits that it cannot and would not manipulate numbers. SBC's reports are based on the Firm Order Commitment ("FOC") committed due date and the actual completion date. If the actual completion date is later than the actual FOC committed due date, then the order is considered to have been missed. SBC cannot, at the time a commitment is missed, change either the FOC due date or the completion date.

2. Time from BOC Promised Due Date to Circuit being placed in service (measured in terms of percentage installed within each successive 24 hour period until 95% installation completed)

In its Comments, SBC stated that "[t]his service category is clearly defined and appropriate. SBC can provide this service interval information in the format requested except that clarification of the parenthetical statement is necessary."¹⁷

¹⁶Bell Atlantic/NYNEX, p. 5; PacTel, p. 5; U S WEST, p. 5.

¹⁷SBC Comments, p. 4.

SBC agrees with Pacific Telesis that the BOC promised due date is meaningful and appropriate for use in measuring and reporting since it is the result of negotiation between the BOC and the IXC.¹⁸ Furthermore, SBC strongly agrees with Pacific Telesis that there is no need to require that the measurement be reported in terms of the percentage installed within each successive twenty-four hour period.¹⁹ Such a requirement would necessitate system changes and would be unduly burdensome. In addition, SBC supports the Bell Atlantic/NYNEX statement that reporting on an incremental 24 hour basis is not a standard industry measure and would impose a burden without providing any meaningful data.²⁰

As stated by Pacific Telesis, BOCs are prohibited from favoring its interLATA affiliate in the provisioning of access services.²¹ The percentages of missed promised due dates and the average numbers of days of provisioning intervals are sufficient measures to accomplish this category.

SBC supports Ameritech's position regarding the concerns raised by commenting parties that BOCs may routinely delay high priority orders of non-affiliates and expedite their low-priority orders, while doing the reverse for affiliates.²² As Ameritech stated, that concern is based on the assumption that the BOC will know not only the priorities of its affiliate's order but also the priorities of orders placed by non-affiliates. As indicated by Ameritech, this assumption unreasonably attributes to the BOC the ability to determine relative priorities of all the orders each customer places.

3. Time to Firm Order Confirmation (measured in terms of percentage implemented within each successive 24 hour period, until 95% completed)

¹⁸PacTel, p. 9.

¹⁹PacTel, p. 6.

²⁰Bell Atlantic/NYNEX, p. 6.

²¹PacTel, p. 6.

²²Ameritech, p. 12.

In its Comments, "SBC submit[ted] that this service category can be measured using application ('APP') to . . . 'FOC' time. The APP time would not commence until a BOC receives a complete and accurate Service Request. If a customer supplements a Service Request in a manner that modifies critical dates, then the FOC interval would recommence. With this clarification of service category 3, including the parenthetical statement, SBC can provide the service interval information in the format requested."²³

SBC would clarify that the FOC interval is renewed each time a supplemental request is received by the BOC, regardless of the supplemental activity. Each time a supplemental request is received, the FOC interval must recommence.

SBC supports Pacific Telesis's position that this measurement tracks the percent of FOCs returned to the IXC within 24 hours of the receipt of an accurate service request.²⁴ The FOC confirms the due date on the order and, in some cases, exchanges technical information. This measurement is tracked today for dedicated access services for IXCs that have requested it. Measurements for switched access are based on different intervals based on the trunk assignment process. These measurements vary by the number of switched access trunks being ordered and by whether or not the order is part of a negotiated project. SBC agrees that there is no need to require this category for measurement and reporting in order to meet the requirements of Section 272.²⁵

SBC supports the US West position that customers have differing methods to issue orders: some are mechanized, others are manual (by telephone or facsimile).²⁶ These different processes

²³SBC Comments, pp. 4-5.

²⁴Pactel, p. 6.

²⁵Pactel, p. 7.

²⁶U S WEST, p. 5.

generate inconsistencies that could be construed as discriminatory. A better measure, SBC agrees, would be the interval between the application date and the original due date. The application date is the date a customer formally notifies the BOC of a service request with complete and accurate information; the original due date is the negotiated formal date when service is promised. The relationship and interval between these two dates are constant for a particular service, regardless of the method a customer uses to place its order with the BOC, and will provide a consistent measure of the BOCs responsiveness to service orders.

4. Time from PIC change request to implementation (measured in terms of percentage implemented within each successive 6 hour period, until 95% completed) -- By CIC Code

SBC submits that this interval measurement must take into account the different ways in which primary interexchange carrier ("PIC") changes may be communicated to the BOC, as follows:

- 1) A subscriber may call a BOC business office and request a PIC change.
- 2) An interexchange carrier may submit PIC changes to SWBT via the mechanized Customer Account Record Exchange ("CARE") process.

While this measurement is relevant, SBC would clarify that interval expectations must vary depending on how the PIC order is received (i.e., business office service order or mechanized CARE process). SBC has a PIC process measurement in place today, and this data is already shared with many IXC's throughout the industry. SBC handles all PIC changes through the same processes (service order or mechanized process); consequently, all PIC changes are treated in the same manner and are currently being measured in 6 hour increments.

SBC agrees with the Bell Atlantic/NYNEX position that "the possibility of discriminatory performance in such a process is remote."²⁷ SBC also agrees with the other BOCs that maintaining data by individual CIC would be burdensome and unnecessary.²⁸

5. Time to Restore and trouble duration (percentage restored within each successive 1 hour interval, until resolution of 95% of incidents)

In its Comments, SBC stated that "[w]hile SBC is not sure that it fully understands the parenthetical phrase in this service category, SBC can provide the service interval information relating to time to restore and trouble duration in the format requested."²⁹

SBC agrees with Pacific Telesis that if this measurement to report on intervals is required, a two-hour interval would be more appropriate because it would capture a larger sample of occurrences.³⁰

SBC agrees with Bell Atlantic/NYNEX that this category should be modified since it appears to confuse two different measures: a) time to restore, i.e., the time a BOC takes to restore service once notified--usually called mean time to repair; and b) trouble duration, which in addition to time to restore includes the time for a customer to agree the trouble has been resolved.³¹ The appropriate measure for category 5 is mean time to clear reports (time from BOC receipt of trouble report from the customer until the service is restored and closed with the customer).

²⁷Bell Atlantic/NYNEX, p. 6.

²⁸Bell Atlantic/NYNEX, p. 6; Ameritech, p. 15.

²⁹SBC Comments, p. 6.

³⁰Bell Atlantic/NYNEX, p. 7.

³¹PacTel, p. 8.

SBC opposes AT&T's request to track a "Failure Frequency" metric analogous to "Incidence of New Circuit Failures."³² This type of reporting would be extremely difficult and cumbersome to track. Our systems do not allow us to maintain life histories of circuits for reporting purposes.

SBC also opposes SPRINT's request to add to the measurement:

- 1) number of customers suffering services outages per 100 subscribers, and
- 2) number of trouble reports per 100 access lines.³³

These report rates would prove nothing. A better indicator of discrimination is trouble reports on new installations and repeat reports.

6. Time to restore PIC after trouble incident (measured by percentage restored within each successive 1 hour interval, until resolution of 95% restored)

In its Comments, SBC stated that "[w]hile SBC is not sure that it fully understands the parenthetical phrase in this service category, SBC can provide the service interval information relating to time to restore PIC after trouble incident in the format requested."³⁴

While SBC has the ability to track this item, SBC agrees with Ameritech, Pacific Telesis and Bell Atlantic/NYNEX that this type of trouble is cleared in a very short interval,³⁵ and SBC thus questions the value of this requirement. SBC further clarifies that the only PIC problems involved in this category are PIC verifications as translated in the switch. These verifications are resolved on line with the customer.

7. Mean time to clear network / average duration of trouble (measured in hours)

³²AT&T, p. 10.

³³Sprint, pp. 3-4.

³⁴SBC Comments, p. 6.

³⁵Ameritech, p. 14; PacTel, p. 8; Bell Atlantic/NYNEX, p. 7.

In its Comments, SBC stated that "SBC submits that this service category is clearly defined and appropriate. SBC can provide this service interval information the format requested."³⁶

SBC supports Pacific Telesis' comments to Category 7 as follows:

Only one IXC has used this measure in the past, and even that IXC removed it as an official measure in 1997. This measurement would be arbitrary since it could include time expended dispatching repair personnel to the premises to identify who is responsible (the access provider, IXC, or end user) in order to meet the demand of the IXC, even though the access provider had already done remote testing and reported that the trouble was not in its portion of the network.³⁷

In addition, as stated by Bell Atlantic/NYNEX, this category is redundant with category 5 and should be eliminated.³⁸

IV. FREQUENCY OF UPDATE AND LENGTH OF RETENTION

None of the commenting parties in this proceeding requested more frequent updates than monthly updates. SBC reiterates its proposal:³⁹ It would update interval information on a monthly basis. SBC would retain the data in at least one business office in each of its states, as well as on its home page on the Internet, for one year. This proposal should be adopted.

V. LEVELS OF AGGREGATION

The IXCs filing Comments in this proceeding urged the Commission to order BOCs to disclose disaggregated interval information for the BOC as well as for its affiliates; in other words, those parties argued against the disclosure of combined data for a BOC and its affiliates.⁴⁰ As SBC stated previously, the BOCs should aggregate their own service request interval information, by

³⁶SBC Comments, p. 6.

³⁷PacTel, p. 8.

³⁸Bell Atlantic/NYNEX, p. 7.

³⁹SBC Comments, p. 8.

⁴⁰MCI, p. 7; TRA, p. 12; Teleport, p. 14.

service category, with the corresponding information for their affiliates. Since competitors of BOC Section 272 affiliates would be unwilling for their service interval information to be made publicly available, and since Section 272 contemplates that BOC Section 272 affiliates will be able to compete on the same basis as their competitors, the BOC 272 affiliate's service interval information should not be made publicly available on a disaggregated basis. Since the standard for nondiscrimination under Section 272(e)(1) is "the period in which it provides such telephone exchange service and exchange access to itself or to its affiliates," aggregation of BOC information with that of its affiliates is appropriate.

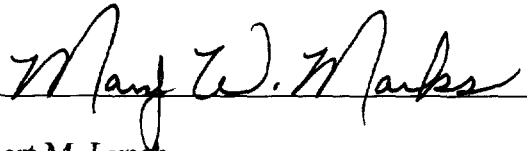
VI. CONCLUSION

The Commission has concluded that, in order to implement Section 272(e)(1) effectively, the BOCs must be required to make publicly available the intervals within which they provide exchange or exchange access services to themselves and their affiliates. Although SBC and others filing on behalf of BOCs have shown that these disclosure requirements are unnecessary and duplicative, SBC also stated that it could comply with most of the requirements proposed by the Commission in Appendix C to the FNPRM. The proposed standardized format was taken almost verbatim from AT&T's proposal for such a disclosure format. SBC therefore urges the Commission not to adopt AT&T's new proposal to substantially enlarge the information required to be disclosed on a periodic basis, particularly since the Commission's proposal was so close to AT&T's own proposal. AT&T's position is certainly disingenuous: if the Commission's tentative conclusions

were close to what AT&T asked for, then AT&T apparently believes that it did not ask for enough the first time around. The Commission should reject those arguments and order that information be disclosed in substantially the format proposed in the FNPRM.

Respectfully submitted,

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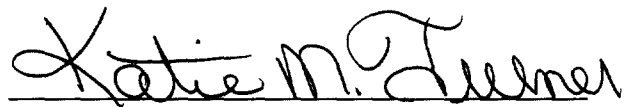
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I, Katie M. Turner, hereby certify that the foregoing, "REPLY COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY" in CC Docket No.96-149 has been filed this 21st day of March, 1997 to the Parties of Record.

A handwritten signature in cursive script, reading "Katie M. Turner", written over a horizontal line.

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